



# KANSAS DEPARTMENT OF CORRECTIONS

	<b>INTERNAL MANAGEMENT POLICY AND PROCEDURE</b>	SECTION NUMBER	PAGE NUMBER
		10-109A	1 of 8
<b>Approved By:</b>  <b>Secretary of Corrections</b>		SUBJECT:	
		PROGRAMS AND SERVICES: Offender Work Assignments	
		Original Date Issued:	10-13-16
		Replaces Version Issued:	N/A
		CURRENT VERSION EFFECTIVE: 10-13-16	

APPLICABILITY:	<input checked="" type="checkbox"/> ADULT Operations Only	<input type="checkbox"/> JUVENILE Operations Only	<input type="checkbox"/> DEPARTMENT-WIDE
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## POLICY STATEMENT

Offenders shall be provided routine, regularly established work assignments which are designed to occupy their time in a productive manner and, to the extent possible, to provide opportunities to develop, maintain, and/or improve vocational skills, work habits, self-confidence and other job related attitudes. (ACA 2-CO-5A-01; ACI 3-4395, 3-4397) Offenders shall be assigned to jobs in the facilities as aides, or as part of work details or maintenance crews. Evaluation of offender performance in facility jobs or industries shall be considered a major indicator of progress toward fulfillment of the program plan. Offenders shall be compensated for participation in work assignments. Such compensation shall be based upon the established skill classification of the assignment. Offenders working directly for a private industry in either a facility based or non-facility based private industry shall be paid the higher of either the federal minimum hourly wage or the local prevailing wage for similar types of work or its equivalent if paid as piece work. (ACI 3-4398, 3-4407)

A work plan shall be developed by each facility which classifies work assignments depending on the nature and function of the work or activity and provides an adequate number of positions to meet the realistic placement and workload needs of the facility's programs and operation, the needs of industrial and private enterprise employment programs, (ACI 3-4399, 3-4404) and the needs of community work projects which utilize offender workers. (ACI 3-4394) The facility classification committee shall determine the security requirements and programmatic needs of offenders to be eligible for placement in industries and private enterprise employment programs; (ACI 3-4398, 3-4403) the unit team shall be responsible for all work assignments. Adequate provisions shall be included in the work plan for employment of handicapped offenders. (ACI 3-4396)

Each facility's work plan shall be reviewed annually and approved by the Deputy Secretary of Facilities Management.

To the extent possible, in order that the offender workday can approximate the workday in the community, facilities shall schedule offender activities, visitation, programs and services to permit access to offender workers with a minimum disruption to the offenders' routine workday. (ACI 3-4400) As much as possible, offender participation in facility jobs or correctional industries shall be on a 40 hour work week schedule.

Any offender may be moved from one job classification to any other classification, and may be paid incentive pay commensurate with that classification. Such a decision shall be based upon the unit team's recommendation and judgment of the offender's performance and shall follow consultation with the supervisor.

Offenders who are serving a sentence for the conviction of a sexually violent offense shall not be assigned to a community service work detail until such time as they have successfully completed SOTP and a determination is made that they are not high-risk on the Commitment Review Committee (CRC) Assessment. If such offenders meet these criteria, they shall only be assigned to community service details supervised by KDOC staff.

## DEFINITIONS

Community Service: Assignments that include, but are not limited to, community service projects for federal and state agencies, cities, counties, school districts, and other entities organized for charitable and public interest purposes.

Correctional Industries Detail: Assignment to work programs operated by the Kansas Correctional Industries.

Facility Administrative Health Authority: The Health Services Administrator responsible for the provision of health care services at a facility. The Health Services Administrator works under the direction of the Regional Medical Director clinically and the Regional Vice President or designee administratively.

Facility Clinical Health Authority: The physician Site Medical Director responsible to the Regional Medical Director for all clinical matters and to the Health Services Administrator for all administrative matters.

Facility Support: Assignments in which offenders are engaged in operational support activities, e.g., food service, laundry, maintenance, porters, etc.

General Worker: A computer generated offender job status (no pay) that indicates that such offenders are eligible to be assigned to any job assignment consistent with their custody classification.

Limited Worker: A computer generated offender job status (no pay) which indicates that such offenders are restricted from participating in community details where they may come in contact with, or be in close proximity to, children. Limited workers assigned to a community detail shall be supervised by a KDOC staff member as provided by IMPP 10-125.

Private Industry Employment Program: The term used to refer generally and collectively to private prison based and private non-prison based employment programs.

Program: Required or voluntary activities and/or instruction directed toward the advancement of education, employment skills, and mental health, which are ultimately intended to contribute to facility management and assist the offender in leading a law-abiding lifestyle.

Sexually Violent Crimes: As defined by K.S.A. 22-4902(c), "sexually violent offenses" means:

- Rape as defined in K.S.A. 21-3502, prior to its repeal, or K.S.A. 2014 Supp. 21-5503, and amendments thereto;
- indecent liberties with a child as defined in K.S.A. 21-3503, prior to its repeal, or subsection (a) of K.S.A. 2014 Supp. 21-5506, and amendments thereto;
- aggravated indecent liberties with a child as defined in K.S.A. 21-3504, prior to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-5506, and amendments thereto;
- criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505, prior to its repeal, or subsection (a)(3) or (a)(4) of K.S.A. 2014 Supp. 21-5504, and amendments thereto;
- aggravated criminal sodomy as defined in K.S.A. 21-3506, prior to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-5504, and amendments thereto;
- indecent solicitation of a child as defined by K.S.A. 21-3510, prior to its repeal, or subsection (a) of K.S.A. 2014 Supp. 21-5508, and amendments thereto; and amendments thereto;
- aggravated indecent solicitation of a child as defined by K.S.A. 21-3511, prior to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-5508, and amendments thereto;
- sexual exploitation of a child as defined by K.S.A. 21-3516, prior to its repeal, or K.S.A. 2014 Supp. 21-5510, and amendments thereto;
- aggravated sexual battery as defined by K.S.A. 21-3518, prior to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-5505, and amendments thereto;

- aggravated incest as defined by K.S.A. 21-3603, prior to its repeal, or subsection (b) of K.S.A. 2014 Supp. 21-5604, and amendments thereto; or
- electronic solicitation as defined by K.S.A. 21-3523, prior to its repeal, and K.S.A. 2014 Supp. 21-5509, and amendments thereto;
- any conviction or adjudication for an offense that is comparable to a sexually violent crime as defined in this subsection, or any out of state conviction or adjudication for an offense that under the laws of this state would be a sexually violent crime as defined in this section;
- an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303, prior to their repeal, or K.S.A. 2014 Supp. 21-5301, 21-5302, 21-5303, and amendments thereto, of a sexually violent crime, as defined in this section; or
- any act which has been determined beyond a reasonable doubt to have been sexually motivated unless the court, on the record, finds that the act involved non-forcible sexual conduct, the victim was at least 14 years of age and the offender was not more than four years older than the victim. As used in this paragraph, "sexually motivated" means that one of the purposes for which the defendant committed the crime was for the purpose of the defendant's sexual gratification.

Work Assignment: The job or program activity assigned to an offender by the unit team as necessary to meet the needs of the facility work plan or to satisfy the elements of the Offender Program Agreement.

Work Detail Assignment: Specific job/work activities required for facility support, industries, and community service as described in the facility work plan.

## **PROCEDURES**

### **I. Facility Work Plan (ACI 3-4394)**

- A. Each warden shall ensure the development of a facility work plan, which shall be submitted to the Deputy Secretary of Facilities Management for approval.
  1. Work assignments shall be classified according to the nature and function of the work performance and shall, to the extent possible, approximate the workday in the community. (ACI 3-4400)
  2. The facility work plan shall provide for an adequate number of positions to meet the realistic workload of the facility's operational needs, the needs of industrial and private employment ventures, and the needs of community work projects. (ACI 3-4404)
  3. Where applicable, the work plan shall incorporate advice and assistance of labor, business and industrial organizations to assist in providing skills relevant to the job market. (ACI 3-4397, 3-4399)
  4. Each work assignment shall be classified by skill level depending upon the nature and function of the work/program, and shall be identified as one of the following:
    - a. Level A (Student);
    - b. Level B (Unskilled);
    - c. Level C (Semi-skilled); or,
    - d. Level D (Skilled);
- B. Proposals for modification of the work plan shall be submitted to the Deputy Secretary of Facilities Management for approval.
- C. The facility work plans shall be reviewed and approved no later than July 1st each year by the Deputy Secretary of Facilities Management, and shall be established in OMIS after approval.

**II. Incentive Pay (ACI 3-4407)**

- A. Offenders shall receive incentive pay only for days worked on work detail assignments or for participating in program activities assigned by the unit team commensurate with their incentive level, unless an offender received the disciplinary sanction "work without incentive pay or extra work without incentive pay" as part of a disciplinary case disposition.
1. Offenders should receive a full day's pay if a temporary change in status occurs through no fault of the offender.
  2. Offenders shall not receive pay for routine housekeeping activities/details, which are not included in the work plan.
  3. Pay levels shall be consistent with current budgetary allocations.
  4. Pay rates are established as follows:
    - a. Level A: Daily pay rate of \$ .45
    - b. Level B: Daily pay rate of \$ .60
    - c. Level C: Daily pay rate of \$ .75
    - d. Level D: Daily pay rate at \$ 1.05
    - e. Kansas Correctional Industry (KCI):
      - (1) Pay Grade #1: Hourly pay rate at \$ .25
      - (2) Pay Grade #2: Hourly pay rate of \$ .40
      - (3) Pay Grade #3: Hourly pay rate of \$ .60; and,
      - (4) Pay Grade HAB1: Hourly pay rate of \$3.00
  5. The offender pay period shall be 28 days duration.
    - a. All facilities shall be on the same pay cycle.
  6. Work assignments shall be identified as five (5) days, six (6) days, or, seven (7) days per week.
  7. Offenders who have refused to enter into or participate in recommended programs shall be offered the opportunity to reconsider and/or rescind their refusal at the next and subsequent 120-day reviews.
    - a. Offenders who agree to enter and participate in programs shall be eligible for advancement in incentive levels, per provisions of IMPP 11-101.
  8. If an offender is placed in a recommended program, incentive pay shall continue at the rate the offender was receiving for his/her work assignment at the time of placement.
    - a. Offenders who are reassigned from employment with the Kansas Correctional Industries (KCI) to a recommended program shall receive the daily incentive pay at Level D, as prescribed by Section II.A.4. of this IMPP.
- B. Offenders in the following non-assigned status shall be paid at Level A, five (5) days per week:
1. Post-orientation, not yet assigned;

2. Never assigned due to lack of work/program availability; or,
  3. Medically restricted from working.
- C. Offenders in the following status shall not be eligible for incentive pay until assigned or reassigned:
1. Refused a work assignment:
  2. Removed from the last work assignment due to misconduct or poor work performance:
  3. Confined in disciplinary or administrative segregation, except:
    - a. Those on protective custody status who are ready, willing and able to work/participate and are unable to work/participate through no fault of their own due to the lack of available work assignments.
    - b. Those in administrative segregation for purposes of medical/behavioral health isolation, except the offenders segregated in accordance with IMPP 10-126D, shall not be eligible for incentive pay.
    - c. Such offenders shall be paid in the same manner as unassigned general population offenders if any of conditions in "a" or "b" above apply.
  4. Received from another facility for disciplinary reasons and waiting transfer to a more secure facility for disposition of disciplinary charges.
  5. Received as parole, conditional release, or other post-release supervision violators, either condition violators or with a new charge.
- D. Offenders assigned to Kansas Correctional Industries (KCI) shall be paid on an hourly rate in four (4) pay grades, as previously indicated within pertinent procedures of this IMPP. At the discretion of the Director, KCI, offenders may be paid through an offender wage fund/group incentive program or standard pay grade assignments.
1. The number of hours worked by offenders shall be determined either by time clock card records or time sheets signed by KCI staff.
  2. KCI shall provide an accounting of the number of hours worked by each assigned offender to the facility business office at the end of each offender payroll period.
    - a. KCI shall reimburse each facility's imprest fund for the amount of KCI offender payroll at least annually.
- E. Offenders assigned to KCI who are engaged in work projects for a private individual corporation, partnership or association, as authorized by K.S.A. 75-5275, shall be paid in accordance with the contract as provided by IMPP 10-128D.
1. If the contract provides that offenders will be paid by piece rate, rather than an hourly rate, that compensation shall equate to at least the federal minimum wage.
- F. Notwithstanding any other provisions of this document to the contrary, offenders of the Hutchinson Correctional Facility (HCF) who are at Incentive Level I, as determined by the provisions of IMPP 11-101, shall be eligible for placement in the KCI Clothing program located at HCF.
1. HCF offenders placed in the Clothing program at HCF who are at Incentive Level I shall be paid at the Level D daily pay rate of \$1.05 per day as established above under Section II.A.4.d.

- a. Upon attaining Incentive Level II status, such offenders shall be paid according to the hourly KCI pay rates as established under the provisions of Section II.A.4.e.

### III. Assignment to Work

- A. Each warden shall promulgate a General Order specifying procedures for assignment of offenders to work/program activities which comply with the provisions of this IMPP (ACI 3-4395), and which ensures that the facility classification committee considers programs and security issues with regard to assignments to industries or private enterprise employment. (ACI 3-4403)
- B. The responsibility for all work assignments and jobs/activities assigned to all offenders shall rest with each offender's unit team.
- C. To the extent possible, the unit team shall attempt to match the physical and mental abilities of the offender to the required tasks of a work assignment.
  1. In the event no such match is available, the unit team shall assign the offender to a position with increased or decreased demands in a training capacity.
  2. In the event the offender is, in the determination of the facility Medical Director or designee, limited due to a physical handicap, reasonable accommodations shall be made to provide a work assignment. (ACI 3-4396)
- D. Offenders shall not be denied the opportunity to participate in the elements of their program agreement or to transfer to a transitional program due to their assignment to a particular facility work plan detail. (ACI 3-4395)
  1. Referrals to such programs shall be made in a timely manner irrespective of the offender's work assignment status.
- E. Offender work detail assignments shall include and be prioritized as follows: (ACI 3-4390)
  1. First priority: Facility support assignments;
    - a. Facility operational support;
    - b. Facility maintenance and improvements; and,
    - c. Facility grounds
  2. Second priority: Correctional Industries and Private Industry Employment assignments; and,
    - a. Assignments to private employment positions shall be in accordance with IMPP 10-128D.
  3. Third priority: Community service assignments in accordance with the provisions of IMPP 10-125.
    - a. State agency support;
    - b. Local agency support;
    - c. General Service; and,
    - d. Non-profit organization support.
- F. The warden shall be responsible for ensuring that work detail assignments are filled as the availability of offenders allows.

- G. Offenders with an assessed need for sex offender treatment shall not be placed on a community work detail until such time as that program has been successfully completed.
- H. All minimum custody offenders shall have a computer generated job status classification (no pay) of either "general" or "limited" worker.

#### **IV. Removal from a Work Assignment**

- A. Removal of an offender from a work assignment shall be the responsibility of the unit team.
- B. Offenders may be removed from a work assignment for cause due to:
  - 1. Refusing to work/participate:
  - 2. Disruptive behavior impeding the work/participation of others;
  - 3. Consistently poor work and/or other program performance/participation;
  - 4. Security considerations; or
  - 5. Refusal to participate in a recommended program at the time of placement.
- C. Except as provided below, if an offender is to be removed from a work assignment for cause, the detail supervisor shall prepare a disciplinary report bringing appropriate charges against the offender.
  - 1. If the work assignment from which the offender is removed is a program activity and the only cause for removal is refusal to participate as set forth under either Section IV.B.1. or IV.B.5., no disciplinary report shall be prepared with regard to the offender's removal from the program activity.
- D. An offender may be administratively removed from a work assignment for inability to perform the work/participate due to:
  - 1. Medical/mental health considerations;
  - 2. Lack of job skills and the supervisor is unable to teach these skills; or
  - 3. Lack of the basic aptitude necessary to perform the needed work/activity.
- E. The detail/program supervisor shall submit to the unit team supervisor a written recommendation for removal of an offender for administrative reasons.
  - 1. Such recommendations shall clearly indicate that the removal is for administrative reasons not related to the offender's conduct or behavior.
  - 2. Such recommendation shall specifically detail the offender's inability to function in the work/program assignment.
  - 3. Reasonable accommodations shall be made to retain offenders on assignments. The facility Medical Director or designee shall review the work assignments and the offender's physical abilities or limitations prior to removal from an assignment for other than conduct or behavior reasons.
- F. Offenders who are removed from a work assignment pursuant to Section IV.D. of this IMPP, shall be offered re-assignment within 30 days of their removal if the offender:
  - 1. Is ready, willing and able to work;

2. Does not present security concerns; or
  3. Is not restricted due to medical considerations.
- G. Except as provided in Section G.1. below, effective October 1, 2010, offenders who are removed from a work assignment pursuant to Section IV.B shall not be assigned lay-in for cause status for more than 120 continuous days from the date of release from disciplinary segregation or the most recent class I or class II disciplinary conviction whichever occurs latest.
1. Additional class I or class II disciplinary convictions or placements in disciplinary segregation resulting from events occurring subsequent to the offender's assignment to lay-in for cause status may extend the continuous period of lay-in for cause for up to an additional 120 days from the latest class I or class II disciplinary conviction or latest release from disciplinary segregation.

**NOTE:** The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

#### **REPORTS REQUIRED**

None.

#### **REFERENCES**

K.S.A. 75-5210, 75-5211, 75-5275, 2012 Supp. 22-4902(c)  
K.A.R. 44-8-116  
IMPP 10-125, 10-126D, 10-128D, 11-101, 15-101  
ACO 2-5A-01  
ACI 3-4390, 3-4394, 3-4395, 3-4396, 3-4397, 3-4398, 3-4399, 3-4400, 3-4403, 3-4404, 3-4407

#### **ATTACHMENTS**

None.